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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,003	08/01/2006	Makoto Matsushita	H&C-5187 filed August 1	1292
7590 John R. Mattingly Mattingly Stanger & Malur 1800 Diagonal Road Suite 370 Alexandria, VA 22314			EXAMINER SWENSON, BRIAN L	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 11/14/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,003

Applicant(s)

MATSUSHITA ET AL.

Examiner

BRIAN SWENSON

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8506)
Paper No(s)/Mail Date 8/1/06

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 4, 5, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 63-85571 (Reference AM cited by Applicant in the IDS filed on 1 August 2006) in view of U.S. Patent No. 1,263,514 issued to Bernard.

In re claims 1 and 9, JP 63-85571 shows in Figures 1-5 of a working machine including an automotive vehicular body and a working device mounted on the vehicular body, the vehicular body providing a frame constituting a support structure, an engine mounted on the frame (see Figure 1, A, where a work machine is shown), and a device cover (elements 1,3,5) for openably (Figure 2) and closably (Figure 1, A&B) covering devices including an engine and for internally defining therein a device accommodation space, characterized in that:

the device cover has a bent L-shape by being formed with an upper face (1) located above the devices, a side face (5) located on a side of the devices, and a bent face (3) connecting the upper face and the side face,

the device cover being constituted by a plural number of separate cover elements (see elements 1, 3, and 5) separated at a joint position (4 and 6) extending in a direction from front to rear.

JP 63-85571 discloses the claimed invention except element (3) is a bent, angled face and not a convex curved bent face.

Bernard shows in Figure 1 that convex curved bent faces (see element 1) are known for engine covers. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a convex curved bent face, as taught by Bernard, in the place of the angled face taught by JP 63-85571. One would be motivated to use a well-known convex curved bent face to provide a smooth cover for aesthetic purposes and using a convex curved cover would additionally provide the advantage of providing a cover that would allow rain or snow to not collect on a flat surface.

In re claims 4, 5 and 7-8, see Figure 2 of JP 63-85571 where device cover is shown in the open and closed relationship with the frame (for example, element 10), and where the separate cover elements are separated at the position of the bent face, by the joint positions (4 & 6). In re claim 8, JP 63-85571 shows the device cover has two pieces formed on each lateral side of the frame for accessing each side of the engine.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 63-85571 in view of Bernard, as disclosed above, and in further view of U.S. Patent No. 6,116,366 issued to Creswick et al.

JP 63-85571 as modified by Bernard disclose the claimed invention except for showing a reinforcing member provided on the plate members and extending in a direction from upper to lower along the bent shape.

Creswick et al. show in Figure 1-10 and respective portions of the specification of a device cover for an engine compartment. Creswick et al. show in Figure 9 that the underside of the bent shape device cover (see element 212) has reinforcement members.

It would have been obvious to one having ordinary skill in the art at the time of invention to provide reinforcement members, as taught by Creswick et al., in the invention taught by JP 63-85571 as modified by Bernard to provide rigidity to the device cover. Providing rigidity would provide the advantage of strengthening the device cover.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 63-85571 in view of Bernard, as disclosed above, and in further view of U.S. Patent No. 4,415,052 issued to Gauer.

JP 63-85571 as modified by Bernard disclose the claimed invention except for showing a connecting member provided at a joint position close to separate cover elements of the device cover and a plural number of separate cover elements are mutually connected together with the connecting member.

Gauer shows in Figures 1-4 and respective portions of the specification of a device cover that includes a connecting member (55) provided at a joint position (43) close to separate cover elements (41 & 49) of the device cover and a plural number of separate cover elements are mutually connected together with the connecting member (see Figure 2). It would have been obvious to one having ordinary skill in the art at the time of invention to provide a connecting member, as taught by Gauer, in the invention taught by JP 63-85571 as modified by Bernard. One would be motivated to provide a

connecting member based on Gauer's disclosure that the side panels are readily displaceable (with the connecting member) and are of simple construction; see the Summary of the Invention.

Allowable Subject Matter

4. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The primary reason for the indication of allowable subject matter in this case is the inclusion of reason for the indication of allowable subject matter in this case is the inclusion of a plural number of separate cover elements attached to the frame to be individually opened and closed, where the device cover has a bent L-shape formed with an upper face, a side face and a convex curved bent face connected the upper and side face, in combination with the other elements recited, not found in the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,037,682 issued to Sandrock et al. teach of an enclosure for an engine in a work machine.

U.S. Patent No. 4,630,698 issued to Siewert et al. teach of a side panel with a biasing member.

U.S. Patent No. 4,669,563 issued to Kerney teaches of a quick release for connecting two cover members.

U.S. Patent No. 1,365,121 issued to Norvell teaches of an automotive cover.

U.S. Patent No. 3,815,965 issued to Ostwald teach of a cover with a plurality of panels for an air compressor.

U.S. Patent No. 4,611,680 issued to Redenbarger et al. teach of a hood cover for a work machine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN SWENSON whose telephone number is (571)272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/
Supervisory Patent Examiner, Art Unit 3618

Brian Swenson
Examiner
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/B. S./
Examiner, Art Unit 3618